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ABSTRACT

Prepared by members of the Freedom of Information (FOI) Committee of the Associated Press Managing Editors (AMPE), this collection of articles deals with a variety of issues concerning freedom of the press. Following a list of members of the committee, the major articles in the collection are: (1) "Massive Libel Suits Threaten Freedom of All Newspapers;" (2) "FOI Trends;" (3) "Detroit News' Pulitzer Winners Credit FOI Law and FOI Center;"(4) "FOI Delays Fail to Deter Determined Reporters;" (5) "Hotlines Help Reporters Escape Legal Hot Water;" (6) "Center Answers Questions to Help Reporters Open Doors;" (7) "Journalists in 31 States Now Have Media Law Handbooks;" and (8) "Director, Press Law Center Help with Students' Special Problems." A list of winners of APME's annual Freedom of Information Contest is included. (EL)

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The committee

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Massive libel suits threaten freedom of all newspapers

ITEM: After seven years of legal battling and the threat of bankruptcy, the Alton Telegraph in Illinois settles a multi-million libel suit out of court for $1.4 million (Wall Street Journal, Sept. 1983).

ITEM: The Albuquerque Journal is sued for $17 million by an attorney who says the paper falsely connected him with organized crime (E&P, March 1983).

ITEM: The Milkweed, a monthly milk-marketing tab with a circulation of 1,300, spends $20,000 to defend itself against a $20 million libel suit (Columbia Journalism Review, Jan./Feb. 1983).

Recent verdicts over $1 million are returned against the Washington Post, Penthouse, the San Francisco Examiner, the National Enquirer and several others (Communications Lawyer, Summer 1983).

The past two years have seen a rash of "mega-verdicts," though some of them were later overturned on appeal. Between 1980 and 1982, 45 per cent of libel verdicts topped $250,000, compared with only 17 per cent in previous years, according to the Wall Street Journal.

When a newspaper is the defendant, the battlecry is no longer, "Sue the bastards," but rather, "Sue the bastards for millions." It is the new wave of attorney/plaintiff greed, riding the crest of an old wave of anti-media sentiment.

What's going on here?

Attorney James C. Goodale suggests that the public feels overwhelmed by news media, finds media unresponsive and unaccountable and harbors a deep resentment toward the media.

Joining that view is Dr. Michael Burgoon, the Michigan State researcher whose work detected an attitude gulf between newsrooms and the communities they cover. Burgoon says the single most threatening force to the First Amendment freedoms the press enjoys may well be this gulf. It keeps journalists feeling aloof from the community and the community feeling contempt for journalists.

Ben H. Bagdikian, former editor and media analyst on faculty at the University of California at Berkeley, sees the trend of multi-million-dollar libel suits as partly a consequence of changes in media coverage.

Bagdikian has said the media now treat more objectively those groups (in years past, the conservative side; more recently, the liberals) that once received preferential treatment. As a result, "the media find themselves navigating between hostility or indifference on many sides."

Like an avalanche of snow, massive libel suits can bury newspapers — especially smaller ones. The legal phrase is "chilling effect."

First, the editors' and reporters' time is tied up in lengthy (often years-long) court battles. Money, sometimes hundreds of thousands of dollars that could be better spent on reporting trips and newsroom salaries, goes instead for lawyer's fees — regardless of whether the newspaper wins or loses.

Like an avalanche of snow, massive libel suits can bury newspapers — especially smaller ones. The legal phrase is 'chilling effect.'

Perhaps the most damaging effect is the chill on solid, hard-hitting reporting.

As Stephen A. Cousley, editor and publisher of the Alton Telegraph, told the Wall Street Journal: "We're like a tight end who hears footsteps every time he runs to catch a pass. Wouldn't you be gunshy if you nearly lost your livelihood and your home?"

Mega-verdicts clearly represent a growing threat to the vitality of the First Amendment, at least to that use of the First Amendment which has allowed the press in America to analyze and critique matters of public concern.

What can be done?

Two possible solutions have been discussed, but neither appears likely to be implemented in the near future. One would require legislative action.

State legislatures could pass measures eliminating jury awards intended to "punish" the press and limiting awards to those damages actually proven in court. For example, if the president of Mobil Oil could prove that he lost $40,000 worth of business because of an error by the Washington Post, then that is the sum the Post would have to pay.

A legislative solution would require a state-by-state lobbying effort by the press, and many journalists might find such activity distasteful or even unethical.

The second solution would require a change in how the U.S. Supreme Court views libel judgments. If the Court were to assess the large verdicts as a threat to the First Amendment, it could set new standards of proof or new limits on damages. The current Court, however, seems to be as disenchanted with the press as is the public in general. The Supreme Court has not reversed one libel verdict against the press in the past 10 years.

And so there is no easy answer. Without some relief from the lawmakers or the courts, the press' only alternative is to continue its efforts at closing the gaps between itself and the public. How long it can withstand the pressure of mega-verdicts without compromising its watchdog role more than some papers already have remains to be seen.

— Sue Reisinger

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FOI trends

Reagan, Supreme Court actions affect all news media

An unprecedented effort by the Reagan administration to control information and three important libel cases before the U.S. Supreme Court highlight the activity this year in the freedom of information area. Here is a brief update on those and other recent FOI issues, compiled by members of APME's FOI Committee:

Reagan's Policies

This fall the Reagan administration proposed requiring all government officials with access to mid-level classified information to sign a contract agreeing that they will submit for governmental review any article, book or other item they wish to write for the public — even after they have left public service.

Part of the proposal also seeks to restrict "leaks" to the press by imposing lie detector tests on suspected leakers. It has been criticized as a government attempt to control nearly all information the public will receive in the areas of defense and foreign policy.

The American Society of Newspapers editors also has criticized the proposal, saying it represents peacetime censorship unparalleled in this country.

Nationally known newspaper attorney Floyd Abrams, writing in the Sept. 25 New York Times Magazine, attacked the proposal as giving those in power "a new and powerful weapon to delay or even suppress criticism by those most knowledgeable to voice it."

Abrams' article sees this proposal as the latest in 2½ years of efforts by the Reagan administration to restrict the free flow of information.

Libel Test Cases

During its fall term which began in October, the U.S. Supreme Court has agreed to hear a record number of three libel cases. It has been four years since the high court last ruled on a libel case, and the three pending cases may carry serious implications for all news media.

One case from California involving the National Enquirer will review a ruling that editors and reporters can be personally sued for libel any place their publication circulates, even if they have never been in the state where the suit is filed. The editor and reporter are appealing, arguing the California court had no personal jurisdiction over them.

APME and 17 other news organizations have filed an amicus brief on the side of the journalists.

The second case is based on an appeal by the associate publisher of Penthouse magazine in a libel suit against Hustler magazine. Neither the plaintiff nor the defendant is a resident of New Hampshire, but the suit was brought in that state because the statute of limitations on libel had run in all other states.

The lower courts dismissed the suit, saying it was unfair to Hustler. The Supreme Court will review that ruling.

In the third test case, the high court will be deciding, in essence, whether or not appeals courts lean too much toward protecting the media when they review lower court rulings. The Bose Corp. claims an appeals court went too far in exercising its discretion and vacating a judgment against Consumer Reports magazine.

If the Supreme Court agrees with Bose, it could reverse a legal trend in which 75 percent of lower courts' decisions against news media have been reversed by appeals courts.

In other doings . . .

- Sen. Orrin Hatch (R-Utah) continues his battle to amend the FoI Act and to restrict the release of information to the public. His amendments, and opponents' counter-amendments, will probably be debated in the Senate later this year.
- A bill introduced in the Senate would allow undercover federal agents to pose as members of the news media to infiltrate organizations and collect information.
- Judicial confusion over the U.S. Supreme Court's rulings on open/closed pre-trial hearings continues, and battles still are being fought in many states over closed hearings. So far, no definitive answer is in sight, and state courts continue to rule on a case-by-case basis.
- A trend in seeking multi-million dollar libel verdicts continues (see article on "megaverdicts" elsewhere in this report), but both the Washington Post and the Dallas Morning News had such verdicts overturned.
- The U.S. Supreme Court has let stand a ruling that says a newspaper can be held negligent for printing the name and address of a kidnap victim while her assailant is still at large.
- The Supreme Court has let stand an appeals court ruling in favor of Cocoa (Fla.) Today, which ran a photo of a towel-clad woman who had been held hostage by her husband and forced to disrobe. The woman claimed the photo invaded the her privacy. An appeals court, in overturning a lower court judgment, had ruled the paper was covering a legitimate news event.
- CBS News and about 27 other news organizations are asking the federal courts to institute a rule to allow cameras and recorders in federal courtrooms.
- In a dramatic shift in policy, the American Civil Liberties Union has adopted the view that there can be no libel where the subject of an article involves an issue of public concern.

Detroit News' Pulitzer winners credit FOI law and FOI Center

The FOI Act was a valuable tool for two Detroit News reporters who exposed neglect and perhaps callous indifference surrounding the shipboard deaths of six young sailors in peacetime.

The series of more than 60 articles by Sydney Freedberg and David Ashenfelter led the Navy to overhaul its traditional brigs and to severely restrict use of exercise for punishment and the Marine Corps to withdraw its men from duty as guards in Navy brigs.

The stories also won the reporters and The News a 1982 Pulitzer Prize for public service. (Both have since left The News — Ashenfelter to the Detroit Free Press and Freedberg to The Miami Herald.)

While the reporters wouldn't have gotten the facts without old-fashioned persistence and ingenuity — "We both probably worked 100 hours a week for 3½ months," Freedberg recalled — the federal law gave them a strong lever to pry loose important investigative reports on how the sailors died. It was information the grieving families had been denied.

Even though the reports often were censored before release, some included names of witnesses who then were tracked down and interviewed for first-hand accounts of careless medical treatment and of physical punishment that went too far. FOI requests even yielded last known addresses for some of the witnesses, once names were obtained.

To hear Freedberg tell it, she and Ashenfelter ran into roadblocks everywhere they turned in using the FOI law. In fact, an early reason offered by the Navy's judge advocate general for denying information was that the reporters hadn't *cited* the FOI law when they asked for the facts. "Dave and I didn't know anything about the FOI Act then," she says.

They certainly do now, thanks largely to the FOI Service Center in Washington, started by the Reporters' Committee for Freedom of the Press and jointly supported by the Society of Professional Journalists, Sigma Delta Chi. "Tonda Rush (the center director) was wonderful, really great," Freedberg said this summer.

As the Detroit reporters learned that Navy records were stored "all over the place" — as far inland as St. Louis — they fired off requests to the various Navy branches and record repositories. At first, results were skimpy.

"Our initial stories were about questions raised" when families couldn't learn exactly how their sons died at sea, she said. "Then Admiral Newell read the stories, and he and his wife were touched by how the families of the servicemen felt, and in about three weeks, the investigation reports started coming from the Pentagon." (Rear Adm. Bruce Newell was chief of naval information in 1981, when the series began.)

Sydney Freedberg

David Ashenfelter

Despite the legal roadblocks to use of the FOIA — nine key exemptions, such as for law enforcement, inter-office memos, etc. — Freedberg said she has no major problems with the law.

"I think there is a need for the law enforcement exemption," she said. "My concern is that agencies not misuse those exemptions, and in the case of the Navy, I think they did. I just wonder whether government agencies don't use the exemptions for their own purposes" — not the public's.

For instance, Ashenfelter experimented on some of the censored documents with artists' chemicals until some of the deleted passages became legible. It became clear then, Freedberg said, that some of the Navy's censorship was "to make them look good."

"I don't know that much about what the Reagan administration wants to do with that law," she said this summer. "I don't think they should be tightening up. If anything, they should be loosening up."

She opposes extending the deadlines for agencies to respond to information requests because it seemed that action on many of the ones she filed had been delayed until the last possible moment anyway.

Freedberg also urges more reporters and editors get involved in using the law. "I'd guess very few of my colleagues know anything about how it works. . . . We should continue to press inquiries to see how far the law goes. There are lots of grey areas where the courts haven't ruled yet."

Finally, she urges using common sense: "If you feel an exemption isn't right, or a delay is too long, be brave enough to say so."

— John D. Hopkins

5

FOI delays fail to deter determined reporters

'None of it would have been possible without FOI," concluded Indiana editor William Chapman of a hospital cost investigation that shed revealing light on why medical care has been the fastest-rising element in the cost of living.

Many of Chapman's counterparts around the country have similar praise for what is possible when reporters apply the U.S. Freedom of Information Act to break loose documents and statistics from the federal bureaucracy. Some reporters even mentioned in their articles that the FOI Act helped them obtain the facts reported.

But America's reporters are a long way from using the FOI law to its full potential, according to a survey of the major newspapers in every state and many weeklies and small dailies.

Even the editors and reporters describing the most success with the law were critical of delays and run-arounds they met. At the **Kansas City Star**, general counsel Scott Whiteside said the paper doesn't use the law much any more because "It takes so long to get answers that it's become a tool for long-range investigations only. It sometimes requires constant pressure" on the agencies to get answers.

(Two hundred seventy-four managing editors were asked to report whether and how they'd used the law, and answers came from 26 papers. All but five who replied had used it. In follow-up calls to 15 papers that hadn't answered, 10 editors said their papers had used the law, and five said they hadn't.)

Some impressive reporting resulted from use of the law, and story topics ranged from secret germ-warfare research to a coal-boom swindler's long career of crime. Papers as large as the New York Times and as small as the Times-News at **Twin Falls**, Idaho, found it useful. Here are details revealed by the survey and follow-up interviews. Let's start with the good results:

"We have had some definite successes," wrote William P. Maurer, managing editor of the **Des Moines Register**.

"We've had stories about how the government used Iowa universities to develop a bomb that would dispense hog cholera, how Iowa universities conducted biological warfare research, and how the FBI spied on Iowa college students.

"We've been able to do stories about how major industries were requesting twice as much money from the government as was needed to do some environmental work, how Nebraska land deals soured, how Cuban torture experts worked over American prisoners of war in Vietnam."

Harry Themal, associate editor of the News Journal papers at **Wilmington**, Del., reports, "We have made extensive use" of the law — most notably receiving "thousands of documents" related to involvement in Chile by U.S. corporations and intelligence agencies.

The Wilmington papers also used the FOI Act to get material on Cuban terrorists acting as assassins for intelligence agencies around the world and even on Billy Carter's overseas dealings. The law even let the papers' reporters discover CIA efforts to find out where they were getting such stories, Themal said.

"Our experience has shown that Justice Department officials have been most cooperative in prompt service on our FOI requests. The FBI is usually good, and the CIA is usually impossible," he added.

From **Hammond**, Ind., executive editor William F. Chapman of The Times wrote of using the FOI to get two primary documents for an investigation of health care costs in 11 area hospitals.

"We have turned up reams of very public information the hospitals themselves didn't realize they could compile," Chapman said. "The information . . . will help business and citizen groups in their sensitizing of hospitals and doctors to the fact that people won't or can't pay limitless bills any longer."

"It was exceedingly helpful in getting the Veterans Administration to open up its entire file on the Minneapolis VA Hospital construction project," said Joe Rigert, a reporter with the **Minneapolis** Tribune.

"I tried without the act and was told I couldn't get the records, period." When Rigert tried to persuade the agency to release the papers, his contacts said they'd comply if he would file an FOI request. But getting an answer would take months, Rigert argued, so the agency agreed to expedite affairs. Within a week it made the full file available to him, and Rigert was able to study the actual files while a VA official stood by to watch.

The Tribune's Washington bureau used the law to expose a plot between three grain millers who were fixing prices on artificial milk sold to the government's Food for Peace program. While the U.S. Department of Agriculture had suspended one of the suppliers, the newspaper gave taxpayers their first inkling of how the cost of the foreign aid program was being driven up.

"We have always won access to the documents at issue, though a story has not always resulted," said Finlay Lewis, the Tribune's Washington bureau chief. "But even the absence of a story answers a question that otherwise would have lingered."

"My only observation would be that perhaps we should use it more," deputy managing editor Dave Kuhn said of the FOI law.

"Our most notable employment of the act," wrote assistant managing editor Richard C. Johnston of the **Portland** Oregonian, "came shortly after its enactment when our Washington, D.C., reporter FOIed the Federal Bureau of Investigation for several files relating to people and incidents in Oregon. The result was a major story . . . dealing with the FBI's handling of the state's home-grown Communists and its manipulation of the Oregon media.

"As I recall, the FBI was cooperative, if a bit nervous, about our inquiries. But then, J. Edgar Hoover was dead."

Johnston evaluates the law as "slow and cumbersome, yet of value."

Even the turn-downs can be useful, the **Baltimore** Sun learned. Its nuclear specialist, following the Three Mile Island accident, asked the Nuclear Regulatory Commission for "virtually everything in its files" about the Pennsylvania power plant, said assistant managing editor James S. Keat. "He was denied most of what he wanted but received an index to the file which proved to be very valuable in terms of information and leads at a great saving of time."

Feds release list of Idaho lands for sale
FBI shadows dissident farmers, records show
The Knoxville Journal
25¢
Feb. 16, 1983
Our 144th year
A Gannett Newspaper
Butcher's $50M too late to save bank
Former councilman operated CIA front
By ANDREW PETKOFSKY
THE INDIANAPOLIS STAR
SUNDAY, AUGUST 1, 1982
Chemical sales bribery sweeps Indiana

On another story, the Securities and Exchange Commission's denial of information about Bethlehem Steel confirmed that an investigation was under way, a fact which took the reporter closer to the eventual story.

The Sun found bureaucrats can be helpful, too. A reporter had turned to the Postal Inspection Service in an investigation of questionable fund-raising. A postal inspector told him how to use FOI to get what he wanted and, when he learned the reporter was pressed for time, prepared the documents so they could be mailed as soon as the request was received. The inspector even told the reporter how to appeal for items the inspector didn't reveal first time around.

Complaints of delays were widespread — almost universal — from reporters and editors who had experience with the FOI law.

The Kentucky Post of **Covington** filed more than 100 requests with the FBI and other agencies over a year's time to investigate a band of con artists. "The FBI was not particularly helpful," Post managing editor Mike Phillips said.

"FBI officials often dragged their feet in responding to the requests and often forced our reporters to file administrative appeals," Phillips said. "In a few cases, we were prepared to go into district court, but that was never necessary."

(Nevertheless, the Post's 18-day series by Gary Webb and Thomas Scheffey won an award from the Investigative Reporters and Editors.)

The **Durham**, N.C., Morning Herald also found delays a problem. "It is easy for the bureaucrats to use the act to delay disclosure by insisting that a request be filed under the act and then taking forever to give it to you," managing editor Michael Rouse concluded after his paper had to wait four months for information from the Postal Service about inflation of statistics on the amount of mail being processed in a regional center.

"From my limited experience, I think the FOIA is becoming slower and more difficult to use in the last few years," said Carrick H. Patterson, executive editor of the Arkansas Gazette in **Little Rock**. "I attribute the change to the chilling effects of President Reagan's re-classification order and new instructions for the release of information under the act."

The Gazette's Washington correspondent, Tom Hamburger, estimates the paper has used the act more than two dozen times in five years.

"The most notable obstacle appears to be administrative delay," said Maurer, of Des Moines. "A request with the FBI, for instance, can take anywhere from six to 18 months to produce documents. And after that, there are additional delays if you choose to appeal the agency's exemptions, withholdings, etc. Other agencies respond quicker, but in general using the FOI Act is a time-consuming process."

"It is not that we do not finally get a response or information but that it takes so long that our news-gathering process is sometimes seriously handicapped," wrote Clark Hoyt, managing editor at the **Wichita**, Kan., Eagle-Beacon. "We have received material as quickly as two or three weeks after the request, but more typically it has taken three months or longer."

Hoyt also notes, "In no case was the information provided through the FOIA finally critical to the story that did run."

"Mainly, we found the agencies responsive but extremely slow moving. . . . " wrote Jerald A. Finch, managing editor at the **Richmond**, Va., News Leader, which used the FOI law to pursue stories about a city councilman who had operated a CIA front in Virginia's capital city.

"In sum," wrote the Oregonian's assistant managing editor, Johnston, "our experience with the FOI Act has been that it is slow and cumbersome, yet of value to the Oregonian."

Oakland, Calif., reporter Michael Taylor's memo to his editor at the **San Francisco** Chronicle perhaps speaks for many silent colleagues: "I have no concrete results yet because my FOIA requests are still mired in the bureaucracy of federal government."

— John D. Hopkins

BEST COPY AVAILABLE

Hotlines help reporters escape legal hot water

Hard-pressed by a surge in subpoenas? A leap in libel suits? A closetful of closed-court orders?

Take heart. Help may be a dial away. Just call your nearest First Amendment Hotline, a phenomenon that seems to be growing, although not quite as fast as phone rates themselves.

Definition: A First Amendment hotline is a service offering free legal advice and if necessary representation to journalists or media firms. Queries generally are fielded first through a phone number often set up for 24-hour service.

Probably the best known of the hotline services is operated nationwide by the Reporters Committee for Freedom of the Press. It handles federal and state-local problems and has been doing so for a year around the clock and for three years during business hours.

Separate hotline organizations have been formed in Arizona and Pennsylvania.

This sounds like a boon to journalists faced with ever-increasing legal hurdles involving access to courts, records and meetings, as well as libel and other challenges. But it is a development not without problems.

There is some concern about duplication of effort. And there is concern about the implications of the increasing use of free and cut-rate service from attorneys for the press.

Today's hotline practice can be traced at least in part to the services provided by some state publishers' associations. Some of these associations had staff attorneys or experts with First Amendment experience, and they would field phone calls from publishers, editors and reporters faced with stone-walling by public officials or with legal challenges. In California, for instance, a conservative estimate is that 1,200 such calls come in a year. Rarely, though, does the California Newspaper Publishers Association directly intervene with public officials as a result of those calls. It does enter cases often as *amicus curiae*.

For 13 years the Reporters Committee, headed by Jack Landau and based in Washington, D.C., has been serving as a free clearinghouse and legal defense (and attack) center for the press. With funding assistance from the Society of Professional Journalists, Sigma Delta Chi, it expanded its service last year to include a seven-day, 24-hour phone service. The telephone number is (202) 466-6312.

Staffed by three attorney-journalists, the committee fielded 3,000 phone and letter requests for information in 1982, and expects it to jump to 3,500 this year. A more detailed breakdown was not available.

The Reporters Committee approach can best be described as pragmatic. Landau says callers are interviewed and the problems are researched. Even if the journalist has an attorney, the committee will offer its help to counsel, knowing that many attorneys are called into First Amendment cases without a lot of expertise. It does not generally intervene with public officials, however.

Anyone can call for help, but Landau says that the task of dispensing free advice and aid can be a delicate one. If reporters call without consulting their editors, or after an initial rejection of help from their editors, there are eggs to be cracked if the stepping is not careful.

The Committee has built a fund of knowledge and contacts throughout the country over the years and has attorneys who have agreed to serve *pro bono* (free, for the public good). But Landau adds that the cases have to be screened if the committee is to avoid disgruntled lawyers who have been asked to handle turkey cases.

PENNSYLVANIA: The Pennsylvania First Amendment Coalition began six years ago when a group of editors recognized a need for a joint effort to try to prevent bad legal precedents from being established. The coalition contracted with the Philadelphia firm of Kohn, Savett, Marion and Graf. Attorney Sam Klein, who is credited with much of the operation's success, says three lawyers handle the calls, which have included a few 3 a.m.-type queries.

The coalition takes cases only if the local publisher or broadcaster cannot or will not get involved directly. It also will join in cases as *amicus*. In meeting or records cases, it will call the public official directly in an attempt to persuade a change of heart.

The coalition is supported by donations, none over $1,000. Attorney Klein says the $5,000 retainer paid by the coalition at first did not "come anywhere close" to covering the firm's time. But things have changed. For the 12 months ending in April 1983, the coalition paid $26,000 in fees calculated on an hourly basis, not unlike normal legal matters.

John V.R. Bull, a founder and executive committee member of the coalition, notes that a good part of that cost involved a major case, and that to come up with the money, the group had to dip into its reserves.

As with the Reporters Committee hotline, anyone can call the Pensylvania number.

If you're from Pennsylvania, you call (215) 665-9900 weekdays or (215) 849-0864 nights and weekends.

ARIZONA: The First Amendment Coalition of Arizona established a hotline Jan. 1, 1982, in the Phoenix law office of Brown & Bain. Paul F. Eckstein, the Brown & Bain attorney heading the hotline, says it was funded with $10,000 for the year. The money, according to Bernie Wynn of the Arizona Republic, comes from the Arizona Publishers Association, the Arizona Broadcasters Association and the state's three SPJ-SDX professional chapters.

Attorney Eckstein estimates that the coalition got about $60,000 worth of legal work for its $10,000 in 1982, with up to seven attorneys getting involved. He estimates that as much as 60 per cent involve access to meetings and records and perhaps 40 per cent courtroom access — cameras, subpoenas, etc. Many of the problems, he says, are handled by phone calls to public officials and their attorneys or explanations to the caller about the specific access rights involved.

In addition, the Arizona Coalition entered seven or eight cases as *amicus*, he said. As for late-hour phone calls, there have been a few, Eckstein said, mostly regarding closed meetings of public bodies at

night. His firm even has received calls from public officials, although the hotline is intended to serve just the media.

Eckstein sets the "success" rate in contested instances runs about 75 per cent.

If you're in Arizona, the number to call is (502) 257-8777.

★ ★ ★

The success of these activities is not unclouded. Landau fears that a growth of state hotlines could cause duplication and confusion. He also is concerned that the expertise and resources built up nationally over the years at some expense may go to waste.

He has suggested some sort of a cooperative effort between the states and the Reporter's Committee hotline operation.

There also is the ethical question of the use of *pro bono* or cut-rate work for newspapers by law firms. No one is suggesting that newspapers or broadcasters will support (or go easy on) the many kinds of clients some of these firms may have. No one is suggesting the editors will plug these law firms in their news columns.

But newspapers have been going through an ethical metamorphosis, gradually shucking the sports, government and industry junkets, freebies and advertising pressures in order to avoid even the appearance of favoritism or conflict of interest. Are they setting themselves up for another round of criticism by accepting free or cut-rate legal services?

Bull, from the Pennsylvania Coalition, feels it is a legitimate question, although he concedes that no one raised it when they got started. But that's one reason why his group is paying its way now.

As John Craig of the Pittsburgh Post-Gazette and head of the Pennsylvania First Amendment Coalition, puts it: "We are no charity. We pay our bills.

"If we want good First Amendment law in Pennsylvania, we have to pay good money for representation."

But Jack Landau of the Reporters Committee, for one, doesn't see any serious problem. He says the service provided is really for the public good, not just the publishers or journalists.

Klein, whose dedication to the protection of the First Amendment has a lot to do with Pennsylvania's success well before the treasury was built up, says he had not thought of the newspapers' ethical issue. But he notes that in other areas of law work, attorneys often perform work at cut-rate prices for a new organization, hoping that eventually the group would be ble to pay its own way. That seems to be happening in Pennsylvania.

The above was compiled by Mel Opotowskly, Riverside Press-Enterprise, with the help of Katy Hamilton, Public Opinion, Chambersburg, Pa., and Bernie Wynn, the Arizona Republic.

Center answers questions to help reporters open doors

When the University of Florida law school established a committee to search for a new dean in 1980, the university's president ordered the board's meetings closed to the public.

The law school newspaper, two law students and the Independent Florida Alligator wanted access to the meetings and called the Freedom of Information Service Center in Washington to ask if, under Florida law, the board's meetings should be open. They eventually sued to halt the closed sessions, and the case is now pending in Florida Supreme Court.

This request for information is one of hundreds received by the FOI Service Center each year. The center is a joint project of the Reporters Committee for the Freedom of the Press and the Society of Professional Journalists, Sigma Delta Chi and has helped many reporters more fully use federal and state FOI laws. The federal FOI law was enacted in 1966, and all states have enacted access laws since then.

Elaine English, a staff lawyer for the Reporters Committee who deals with state FOI questions and works with service center director Tonda Rush, said the center's function is "to answer questions about how to use those laws, what a reporter's rights are in terms of getting access to government documents or getting into public government meetings."

English said the center, which handled an estimated 1,200 requests last year, deals with "technical questions regarding various laws" as well as "general questions as to how one can go about getting particular documents."

About 10 to 15 percent of the calls to the center come from student newspapers, she said. Often student callers will be referred to the Student Press Law Center, located nearby.

State laws tend to be quite complicated, English said, and reporters have different rights in different states. Florida, she said, has fairly open laws, and a reporter may file suit for an injunction to prevent closed meetings or to gain transcripts from a closed meeting as well as to void any action that might take place at an illegally closed meeting.

The center publishes a handbook, How to Use the Federal FOI Act, which is sent to journalists on request. It also operates a 24-hour hotline for emergency legal advice and attorneys: (202) 466-6313.

Interns for the center compile a section for the Reporters Committee magazine, The News Media & The Law, giving information about pending court cases that could affect reporters' rights.

The FOI Service Center does not publish handbooks on state FOI laws, as they vary widely and change often, English said.

However, she said, "We keep files on cases in various states that we think involve important issues that we want to keep up on, and we use the magazine as a way of getting the information to reportors and newspapers."

— **Chris Midura**

9

Journalists in 31 states now have media law handbooks

The results of a Freedom of Information Committee survey show 31 states currently have media law handbooks, four are in the process of publishing books and 15 other states do not have them. But several of those 15 are considering them now.

The committee has mailed samples to representatives in a number of states that do not have handbooks. It also has passed on ideas used in other states to pay for them. In most cases, the handbooks have been joint efforts of various press and legal associations.

Some states charge for the book, others do not, depending on costs.

In our survey, there were many positive comments about the handbooks and their uses. A few managing editors raised a flag about the potential for such guides to be considered rules and thus become mandatory. This possibility certainly exists in press-law guidelines, which have been adopted in some states.

But it seems unlikely that the handbooks would be cited as rules, especially if they are billed as what they are. Without exception, the handbooks simply explain and advise on the laws pertaining to such subjects as open meetings, privacy laws, cameras in the courtroom, records, access, gag orders, etc.

Generally, editors and reporters have found the handbooks quite useful, especially when used as part of a program that includes regular meetings with the papers' attorneys to discuss and update such things as libel laws and new decisions in the courts.

The FOI Committee will continue to work with those states which do not have handbooks so that by this time next year perhaps all 50 states will have them.

Here's a state-by-state status report:

Alabama: A handbook was put together by the FOI Committee of the state AP Association. It was updated this year by the University of Alabama Press Law Division, which added a section on privacy. The Birmingham News and the Alabama Press Association distributed the handbook.

Alaska has no handbook yet, though several efforts have been suggested. Professor Dean Gottehrer of the University of Alaska in Fairbanks has asked the Alaska Newspaper Association to look into doing one as a joint project with the Alaska FOI Task Force. Money is a stumbling block.

Arizona has a handbook that was produced by the Arizona Newspaper Association, the Grand Canyon chapter of the Society of Professional Journalists, Sigma Delta Chi and a law firm. It includes all areas from access to copyright. The bound handbook is extremely complete and a good guide for others to follow.

Arkansas' handbook is a joint publication of the office of the attorney general and the Arkansas Press Association in cooperation with the Division of Continuing Education, University of Arkansas. It was financed by a Community Service and Education Grant under Title I. It has an excellent FOI question-and-answer section.

Editors and reporters have found the handbooks quite useful, especially when used as part of a program that includes regular meetings with the papers' attorneys.

California: The California Newspaper Publishers Association prints a handbook and updates it each year. This 94-page booklet summarizes all of the major areas in which legal rights and obligations affect a journalist's work. It's another excellent example.

Connecticut: The Hartford County Bar Association produced a handbook last year. It was written by some well-known and knowledgeable lawyers in Connecticut and gives the basics of civil and criminal procedure as well as information on ethics, the jury system and FOI issues. One of the more helpful items is a glossary of common legal terms.

Delaware: The Wilmington News Journal's editors and lawyers produced a handbook covering open meetings, access to courts and public records, subpoenas, libel and other issues. There is no state press association.

Florida: The state attorney general's office produces Florida's Government-In-The Sunshine and Public Records Law Manual. It is updated each year. The Florida Press Association pays for the printing. An excellent and complete guide.

Georgia: A handbook was prepared by Howard O. Hunter, a law professor at Emory University. The project was supported by the Georgia Press Association, Georgia Association of Broadcasters and the AP FOI Committee. Copies are distributed for $10 each. Talk of an updated version has begun.

Hawaii: The Sunshine Coalition of Hawaii, made up of various civic groups, printed and distributed a fact sheet on the state's open meetings law. There is no media law handbook in the state. However, a synopsis of libel case law is available.

Idaho: The state Press Association has not published a handbook, but it has distributed wallet-size copies of the Idaho Open Meetings Law. It also has supplied reporters with a card suggesting language to be used when confronted with the threat of a closed proceeding. The Idaho Press Club and the Idaho Newspaper Association have agreed to cooperate in the publication of a handbook.

Illinois: A handbook was produced by the Illinois State Bar Association in cooperation with the Illinois Press Association and the Illinois News Broadcasters Association. The handbook was done in a binder so it can be updated regularly. It is being sold for $7.50.

Indiana does not have a handbook, but the Hoosier State Press Association is working on one. An outline has been drafted, and a search is on for money.

Iowa: The Iowa FOI Council, supported by newspapers, has produced several handbooks. Each covers a single topic — Iowa Open Meetings Act, Iowa Open Records Act, and expanded media coverage of Iowa courts. Additionally, the council distributed wallet cards for each of these topics, as well as one covering rights of access to police blotters.

Kansas does not have a state handbook, but an APME inquiry has prompted some serious thinking about producing one. SPJ-SDX is exploring a plan with the state Bar Association.

Kentucky has a handbook on Kentucky press laws and has a project under way to produce a reporters' handbook. The Kentucky Press Association has a group working on this. It has not determined the format yet.

Louisiana: There is no handbook in Louisiana and no plans to produce one.

Maine: The Maine Press Association produced a brochure describing and reprinting the State's Freedom of Access Law, and the association and the Maine Civil Liberties Union have distributed it. A request for a handbook has been presented to the association's board.

Maryland: In Maryland, it has been left up to each newspaper. For example, the Capital-Gazette Newspapers developed a book of state laws that apply to newspapers, recent court rulings and other matters included in any survival kit. The only statewide organization to bring editors together would be the AP.

Massachusetts: The Massachusetts Bar-Press Committee is updating and expanding the book they put out a couple of years ago, "The Reporter's Handbook, To Assist the Media When Reporting on the News." It is available at $5.00 for media representatives.

Michigan: The Michigan Press Association has produced a looseleaf handbook which compiles all Michigan statutes dealing with the media. There is also a brief section entitled "What Do I Do When" which deals with access to public records, meetings, advertising and threats of lawsuit. It cost $25,000 and is updated as necessary.

Minnesota: The closest thing Minnesota has to a statewide handbook is one published by the Minneapolis-Star and Tribune. It is called "First Amendment Guidebook for Minnesota Journalists." In addition to using it internally, they sell it. St. Paul has done a comprehensive First Amendment/Access section to a handbook for newsroom employees. John Finnegan, of St. Paul, and Pat Hirl, of Minneapolis, are collaborating on an FOI-Access handbook they plan to market commercially.

Mississippi just this year passed an open records law. The state has a weak open meetings law. Thus far, there has been no handbook.

Missouri: The Missouri Press Bar Commission published a comprehensive "News Reporters' Handbook on Law and Courts." It is a 168-page handbook, well-indexed and put together in a heavy binder for easy updating. It is sold at $5.00 per copy.

Montana has an outdated booklet published in 1966 by the Bureau of Press and Broadcasting Research of the University of Montana School of Journalism. Much of the information is no longer valid. At present, a committee is working on new press-law guidelines. Members of the group include lawyers, judges and journalists. The guidelines have gone through several drafts for fear that they may suddenly become mandatory.

Nebraska: A group called the Media of Nebraska prepared a handbook in cooperation with the Nebraska Bar Association. A new booklet was made available this year carrying the title, "Warning Signals For Privacy Violations." There have been a number of court battles in Nebraska and, as we all know, the Simant Case went all the way to the Supreme Court. The State Legislature dealt with the revised Open Meetings Law this year.

State	Yes	No	In-process
Alabama	✓		
Alaska		✓	
Arizona	✓		
Arkansas	✓		
California	✓		
Colorado	✓		
Connecticut	✓		
Delaware	✓		
Florida	✓		
Georgia	✓		
Hawaii		✓	
Idaho		✓	
Illinois	✓		
Indiana			✓
Iowa	✓		
Kansas		✓	
Kentucky	✓		
Louisiana		✓	
Maine		✓	
Maryland		✓	
Massachusetts	✓		
Michigan	✓		
Minnesota		✓	
Mississippi		✓	
Missouri	✓		
Montana	✓		
Nebraska	✓		
Nevada		✓	
New Hampshire	✓		
New Jersey			✓
New Mexico			✓
New York	✓		
North Carolina		✓	
North Dakota		✓	
Ohio	✓		
Oklahoma	✓		
Oregon			✓
Pennsylvania	✓		
Rhode Island	✓		
South Carolina	✓		
South Dakota		✓	
Tennessee		✓	
Texas	✓		
Utah	✓		
Vermont	✓		
Virginia	✓		
Washington	✓		
West Virginia		✓	
Wisconsin	✓		
Wyoming	✓		
Totals	**31**	**15**	**4**

Nevada: A group in Nevada attempted to produce a handbook a couple of years ago through SPJ-SDX, but the project fell through. Sources there say the problem was the geographical area of the state which makes it extremely difficult to rally everyone together. The State Press Association plans to discuss such a handbook.

New Hampshire: The New Hampshire Fair Trail-Free Press Committee and the Judicial Planning Committee of the State Supreme Court put out a booklet of 39 pages in 1979. It is called "Layman's Guide to New Hampshire Court Procedures" but includes guidelines on police-press relations and a glossary of legal terms.

New Jersey: AP members were considering publishing a handbook, but backed off when the New Jersey Press Association decided to publish one. That handbook will be available soon.

New Mexico: The New Mexico Press Associa-

tion's FOI Committee is working on the state's first handbook. It was expected to be ready for distribution in October. The price was expected to be $1.00 and there was some feeling that one should be given to every journalist in the state free.

New York: The New York Newspapers Foundation has published a handbook entitled "To Protect the Public's Right To Know: A Survival Kit for Reporters, Editors and Broadcasters." It is a small 42-page booklet which deals primarily with access — how to obtain public records, open meetings, etc. — but also includes sections on defamation, privacy, subpoenas, etc. Some papers, such as The New York Times, do not generally use the handbook, preferring that reporters deal directly with their legal department.

North Carolina does not have a handbook. However, several papers have prepared their own information on such matters such as the state open meetings law.

North Dakota: The best handbook in the state at the moment is a printed summary of state laws conerning the publishing of newspapers, assembled and distributed by the North Dakota Newspapers Association. But it does not address fully such matters as libel, open meetings, protection of sources and the like. There is available a history and description of the state's open meetings and open records laws in the North Dakota Law Review, published by the University of North Dakota Law School.

Ohio: The Ohio Survival Kit was produced by the AP Society of Ohio through its FOI Committee. It was published as a general summary of current media law and to offer suggestions on how certain situations could be handled. It is not meant to be a substitute for legal advice.

Oklahoma: The only handbook available is the "Guide to the Oklahoma Meeting Law" published by the Oklahoma Press Association. Several years ago a joint committee of the Oklahoma Bar Association and Sigma Delta Chi designed a guideline for news coverage of courts and crime but it was rarely used. The Committee of the Bar Association, including members of the press, is currently working on a handbook.

Oregon does not have a handbook, but there are two publications available. One is a booklet prepared by the attorney general dealing with the Open Meetings and Public Records Law. A publication prepared by the Oregon Newspapers Publishers Association deals with other areas. Oregon Joint Committee of Bar, Press and Broadcasters is actively preparing a handbook.

Pennsylvania: The Pennsylvania Media Survival Kit was written five years ago and updated in 1981 and distributed to every reporter in Pennsylvania through the state's First Amendment Coalition. It is being updated again in 1983. There is no charge for the book. It is paid for out of voluntary contributions that support the Coalition.

Rhode Island: The Rhode Island Press Club has published a notebook called "Media Guide on Rhode Island Courts and Open Government." Sections are updated as warranted. The handbook contains chapters on Rhode Island's court system, the federal courts, procedures, media access, open government, ethics and libel. The guide is available for $5.00.

South Carolina: The South Carolina Bar Association this year produced the media handbook. It was a single effort of the Bar Association. A number of major news organizations felt that joint sponsorship might involve some commitments or restrictions they were unwilling to accept. Most newspapers use the handbook as a guideline.

South Dakota has no handbook. There is an effort underway to reestablish a relationship with the State Bar Association. A few years ago, the association abolished the Bar Media Committee.

Tennessee: There are no handbooks available to all papers in the state covering the majority of issues. The Tennessee Press Association distributes wallet cards on the state FOI Act and the Reporter Shield Law. The state AP conducts an annual survey of member newspapers, soliciting legal problems faced during the year and compiles the information for distribution. Other papers distribute a libel handbook.

Texas: The State Bar of Texas, with the assistance of SPJ-SDX, the Texas Association of Broadcasters, the Texas Daily Newspaper Association and the Texas Press Association produced a handbook. It has 10 chapters and each chapter was written by an expert in the field, either an attorney or journalism professor. The notebook includes five appendices. It is a helpful reference and cost $32.00.

Utah: The Utah Headliners Chapter of SPJ-SDX this year published a handbook. It is in booklet format and contains 17 articles written by attorneys, judges and university professors on various aspects of law and ethics pertaining to journalism. The book was published with the help of contributions from Brigham Young University, the Salt Lake County Bar Association, the Scripps League Educational Fund and several newspapers and tv stations. A number of copies were given away, and each member of the Utah Headliners Chapter received a copy when he or she paid 1983 membership dues.

Vermont's handbook was published four years ago and need updating. It was written by newspaper attorneys and was produced in a manner that was easily copied so that it could be distributed across the state.

Virginia's handbook, first published in 1975, is in its fifth edition. It was produced by the Virginia Council on Criminal Justice and was a joint effort of the Virginia State Bar, its Special Committee on Bar-News Media Relations, the Virginia Press Association and the Virginia Association of Broadcasters. The books are sold for $10.00 or given as part of the registration package at Virginia Press-Bar Seminars.

Washington has a publication dealing with media-law problems. It is printed in tabloid form and is being updated to include access issues. It is distributed throughout the state by a chapter of SPJ-SDX. In addition, the Seattle Times has publised a looseleaf legal handbook. This has been made available to others and has been given to schools of communication and non-profit organizations. The state Bar-Press Guidelines have been revised.

West Virginia has no handbook. The Society of Professional Journalists, Sigma Delta Chi has conducted joint meetings with the Bar Association and the State Press Association has put on seminars and recently established a Media Bar Committee from which a handbook might evolve.

Wisconsin's handbook was prepared by the Media-Law Relations Committee in cooperation with the State Bar of Wisconsin, Wisconsin Broadcasters and the Wisconsin Newspaper Association. The handbook was published in 1979. Wisconsin has adopteda new open records law since the booklet was published. The handbook is out of date in some ways.

Wyoming has a looseleaf handbook of about 150 pages. It was prepared by the Legal Research Services of the University of Wyoming College of Law, and covers all pertinent state law concerning the press.

— Gregory E. Favre

ACCESS
RIGHT TO KNOW
LEGAL PUBLICAT LAWS
Utah Media Law Handbook
EMC Handbook
MEDIA HANDBOOK

Director, Press law center help with students' special problems

'We feel there should be no differences in rules for student and professional reporters. Gradually, the courts are becoming more sympathetic to this view.'

Marc Abrams
Student Press Law Center

Student Press Law Center
800 18th Street NW
Washington, D.C. 20006
Phone: (202) 466-5243
Office hours: 9 a.m. to 5 p.m. Monday through Friday
Magazine subscriptions: $10 a year, with issues planned for winter, summer and fall.

First Amendment protection allows professional newspaper reporters great independence. A reporter is expected to be an adversary of government, and government is expected to exercise a minimum of control over a reporter seeking a story.

For high school or college student newswriters or editors, the situation is not always so clear. Restrictions on the free press may be placed by administrators, advisers or even by fellow students. Student journalists often have questions about what they are allowed to do under federal and state laws.

The Student Press Law Center in Washington was founded in 1974 to help students fight censorship of school newspapers. The non-profit agency gives free information on all aspects of student press law to students, teachers, administrators and attorneys. It also provides free legal service to student newspapers and reporters.

Marc Abrams, the center's director and only paid staff member, said the agency's purpose is "to defend the civil liberties, speech and press of the high school and college journalists of the country."

Abrams, an attorney and former journalism professor at the University of Oregon, took control of the center about a month ago. He estimates the agency will receive 500 to 1,000 requests for help this year, some requiring specialized legal research.

This research is mostly carried out by law student interns who arrange to get credit at their universities for their work at the center. There are now two interns on the staff, but Abrams said there have been as many as eight at a time. The interns will do the research, writing and editing for the center's magazine, The Student Press Law Center Report, which resumes publication this winter after an 18-month interruption.

Abrams said the college reporter has special legal problems not faced by the professional. A student may be threatened, dismissed from a paper or even suspended by the administration for work on an article, he said.

Also, "the courts are reluctant to grant relief to the student writer because of the universities' claims that they must maintain order," Abrams said.

"We feel there should be no differences" in rules for student and professional reporters, Abrams said. "Gradually, the courts are becoming more sympathetic to this view."

High school students face even more restrictions than their college counterparts, he said, because often teachers or principals will say "a story is 'not in good taste or not appropriate' " Abrams cited as examples high school papers that were stopped from printing stories on marijuana use and teenage drinking.

Most often, the center has acted through letters of advice or support, but Abrams said it has gone to court itself three or four times, when other steps failed.

A landmark case was Gambino vs. Fairfax County School Board in Virginia. Students on a high school paper had voluntarily submitted copy to their principal for review, and the principal objected to an article about sex education.

The principal told the students the article could run only if certain deletions were made. The students refused to make the changes, and the principal forbade use of the article.

Gina Gambino, the student editor, sued the school's administration, and the center's director at the time, Chris Fager, served as her attorney. Gambino won; the U.S. District Court for Eastern Virginia said the school board couldn't violate her First Amendment rights even though it paid for publication of the paper. The 1977 ruling was upheld by the 4th U.S. Circuit Court of Appeals.

The center is supported mostly by newspapers and other communication companies, with an important contribution the free space it occupies in offices of the Reporters Committee for Freedom of the Press.

Abrams spent most of his first month at the Student Press Law Center trying to raise money. "Our entire budget last year was about $32,000, and it'll only be one or two (thousand) more this year," he said.

Abrams' goals are to "expand our funding base as well as service base." He will be attending conferences across the country, he said, "teaching student press types to be responsible. I try to get them to recognize that with mature approaches to journalism, there will be fewer attempts to direct their products."

— Chris Midura

• *Chris Midura is a senior at Georgetown University. He was a Newspaper Fund intern copy editor at The Miami News last summer.*

The winners

Madison Capital Times captures 13th annual FOI award

The winner of APME's 13th annual Freedom of Information contest is The Madison (Wisc.) Capital Times for its successful five-year fight to force the University of Wisconsin to allow public inspection of files kept on the outside activities of its faculty members.

Three other newspapers received honorable mention citations for their efforts on behalf of the public's right to know:

- The Wilmington (Del.) News Journal for a court victory which opened up committee meetings of various boards, commissions and councils, where decisions affecting the public are often made.
- The Bridgewater (N.J.) Courier-News for an unceasing — although not always successful — fight against secrecy in records, meetings and court hearings.
- The Rochester (N.Y.) Times-Union for its continued efforts to open closed meetings, culminating in a newspaper series, "Behind Closed Doors."

There were 35 entries in this year's contest. Judging was done by contest chairperson Frankie McCarty and members of the APME executive committee.